

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In re:

Chapter 7

MICHAEL HEILBRON,

Case No.
1-18-42486 (ESS)

Debtor,

BENJAMIN PLAZA, JR.
Chapter 7 Creditor

Plaintiff,

-against-

Adv. Pro. No.
18-01055-ESS

MICHAEL HEILBRON,

Defendant.

August 30, 2018
10:00 a.m.

EXAMINATION BEFORE TRIAL of BENJAMIN
PLAZA, JR., a Plaintiff herein, taken by Debtor/
Defendant, held at the offices of LH Reporting
Services, 88-36 Sutphin Boulevard, Jamaica, New
York, before Lori Hoff-Rooney, a Notary Public
for and within the State of New York.

LH REPORTING SERVICES, INC.
Computer-Aided Transcription
88-36 Sutphin Blvd.
Jamaica, NY 11435



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S :

ROTHSTEIN LAW PLLC
Attorneys for Plaintiff
The Woolworth Building
New York, New York 10279
BY: ERIC E. ROTHSTEIN, ESQ.

GEORGE BASSIAS ATTORNEY LLC
Attorneys for Debtor/Defendant
21-83 Steinway Street
Astoria, New York 11105
BY: GEORGE BASSIAS, ESQ.

Also Present: Mr. Roberto Castillo, Intern

* * * * *

221. UNIFORM RULES FOR THE
CONDUCT OF DEPOSITIONS

221.1 Objections at Depositions

(A) Objections in general. No objections shall be made at a deposition except those which, pursuant to subdivision (b), (c) or (d) of Rule 3115 of the Civil Practice Law and Rules, would be waived if not interposed, and except in compliance with subdivision (e) of such rule. All objections made at a deposition shall be noted by the officer before whom the deposition is taken, and the answer shall be given and the deposition shall proceed subject to the objections and to the right of a person to apply for appropriate relief pursuant to Article 31 of the CPLR.

(B) Speaking objections restricted. Every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. Except to the extent permitted by CPLR Rule 3115 or by this rule, during the course of the examination, persons in attendance shall not make statements or comments that interfere with the questioning.

221.2 Refusal to answer when objection is made. A deponent shall answer all questions at a deposition, except (i) to preserve a privilege or right of confidentiality, (ii) to enforce a limitation set forth in an order of the Court, or (iii) when the question is plainly improper and would, if answered, cause significant prejudice to any person. An attorney shall not direct a deponent not to answer except as provided in CPLR Rule 3115 or this subdivision. Any refusal to answer or direction not to answer shall be accompanied by a succinct and clear statement of the basis therefore. If the deponent does not answer a question, the examining party shall have the right to complete the remainder of the deposition.

1
2 221.3 Communication with the deponent.
3 An attorney shall not interrupt the
4 deposition for the purpose of communicating
5 with the deponent unless all parties consent
6 or the communication is made for the purpose
7 of determining whether the question should not
be answered on the grounds set forth in
Section 221.2 of these rules and, in such
event, the reason for the communication shall
be stated for the record succinctly and
clearly.

8 IT IS FURTHER STIPULATED AND AGREED that
9 The transcript may be signed before a Notary
Public with the same force and effect as if
Signed before a clerk or a Judge of the court.

10 IT IS FURTHER STIPULATED AND AGREED that
11 the examination before trial may be utilized
12 for all purposes as provided by the CPLR.

13 IT IS FURTHER STIPULATED AND AGREED that
14 all rights provided to all parties by the CPLR
15 cannot be deemed waived and the appropriate
sections of the CPLR shall be controlling with
respect hereto.

16 IT IS FURTHER STIPULATED AND AGREED by
17 and between the attorneys for the respective
18 parties hereto that a copy of this examination
shall be furnished, without charge, to the
attorneys representing the witness testifying
herein.

1 BENJAMIN PLAZA, JR.

2 B E N J A M I N P L A Z A, J R., having
3 first been duly sworn by a Notary Public
4 for and within the State of New York, upon
5 being examined, testified as follows:

6 THE REPORTER: Please state your
7 name for the record.

8 THE WITNESS: Benjamin Plaza, Jr.

9 THE REPORTER: What is your current
10 address?

11 THE WITNESS: 6172 Northern
12 Boulevard, East Norwich, New York 11732.

13 EXAMINATION BY

14 MR. BASSIAS:

15 MR. BASSIAS: Good morning, Mr.
16 Plaza. My name is George Bassias. I am
17 an attorney and I represent Michael
18 Heilbron in a bankruptcy case. We are
19 here deposing you today in regards to an
20 adversary proceeding that you brought
21 against him. I am going to ask you some
22 questions. If you don't understand the
23 question, let me know I will rephrase
24 it.

25 Please keep your responses verbal so

1 BENJAMIN PLAZA, JR.

2 the court reporter can take down what
3 you are saying.

4 Q. Are you currently employed?

5 A. Yes.

6 Q. What do you do?

7 A. I work for the M.T.A., superintendent
8 of maintenance, buses.

9 Q. Have you ever done any depositions
10 before for the M.T.A.?

11 A. Just testimonies.

12 Q. Are you referring to trials, as a
13 witness?

14 A. Not a witness, as a -- just basically
15 as a facilitator of information on behalf of
16 the M.T.A.

17 Q. What is your highest level of
18 education?

19 A. Associate's Degree.

20 Q. I am sorry?

21 A. Associate's Degree.

22 Q. Associate's in what field?

23 A. Applied Science.

24 Q. What is your date of birth?

25 A. 10/05/82.

1 BENJAMIN PLAZA, JR.

2 MR. BASSIAS: I am going to ask you
3 for your Social Security number.

4 Please only take down the last four
5 numbers of the Social Security number.

6 Q. Can I have your Social Security
7 number, please?

8 A. 3305.

9 Q. The current job that you have, how
10 long have you been working there?

11 A. Three years.

12 Q. What did you do before that?

13 A. Aircraft maintenance for American
14 Airlines.

15 Q. How long did you do that for?

16 A. Five years.

17 Q. How about before that?

18 A. North American Airlines, technical
19 rider.

20 Q. Are you married?

21 A. Yes.

22 Q. How long have you been married?

23 A. A month and -- well, a month.

24 Q. Congratulations.

25 A. Thank you.

1 BENJAMIN PLAZA, JR.

2 Q. Any children?

3 A. No.

4 Q. Do you know the defendant in this
5 action, Michael Heilbron?

6 A. Yes.

7 Q. How long have you known him?

8 A. Only for the time that that happened;
9 which is probably only, no more than a year.

10 Q. You knew him a year before this
11 incident?

12 A. During.

13 Q. Okay. Just so the record is clear,
14 how long before this incident did you know him?

15 A. I didn't know him.

16 Q. It is your testimony, today, that the
17 first time you met him was when this incident
18 happened?

19 A. No. That is not what I said. I said
20 I have known him for a year. And the incident,
21 that ties into the year.

22 Q. Okay. So how long before the incident
23 did you know him?

24 A. Well, when did it happen?

25 Q. According to your attorney's

1 BENJAMIN PLAZA, JR.

2 Complaint, the incident happened June 29, 2008.

3 A. So, a year from that date.

4 Q. So, a year prior to that?

5 A. Yeah.

6 Q. Where did you first meet him?

7 A. Mutual friend.

8 Q. What is the name of that friend?

9 A. His name is Gabriel Estevido
10 (phonetic).

11 Q. If you recall, where did you meet Mr.
12 Heilbron?

13 A. I don't recall.

14 Q. Since you met him, did you have
15 occasions to socialize with Mr. Heilbron?

16 A. Only with mutual friends. That is
17 basically it. Occasions.

18 Q. Were there instances where you went
19 out with Mr. Heilbron?

20 A. Like I said, through mutual occasions.

21 Q. Through mutual friends?

22 A. Right.

23 Q. Are there any specific incidents that
24 you remember prior to this incident where you
25 went, where you socialized with Mr. Heilbron?

1 BENJAMIN PLAZA, JR.

2 A. It could have been at a bar.
3 Occasions where you have drinks. That is
4 pretty much it.

5 Q. Now, is Gabriel Estevido, to your
6 knowledge, a friend of Mr. Heilbron?

7 A. At this the point, I don't know. I
8 don't talk to neither of them.

9 Q. Was he a friend of his at the time of
10 the incident?

11 A. A mutual friend.

12 Q. Are you and Mr. Mr. Heilbron
13 approximately the same age?

14 A. No.

15 Q. Do you know you how old Mr. Heilbron
16 is?

17 A. I don't know. It should state that in
18 his papers. He is younger though.

19 Q. Were you ever friends with Mr.
20 Heilbron on any type of social media, like
21 Facebook?

22 A. No.

23 Q. Did you ever communicate, prior to
24 this incident, with Mr. Heilbron with your cell
25 phone or his cell phone?

1 BENJAMIN PLAZA, JR.

2 A. Communicate in what --

3 Q. Did you ever talk to him on your cell
4 phone?

5 A. Yeah, you know.

6 Q. Did you have his phone number on your
7 cell phone?

8 A. I believe I might have, yes.

9 Q. Do you still have that carrier, that
10 cell phone carrier?

11 A. I don't know. I don't think so. No.

12 Q. Who is your current carrier?

13 A. Verizon.

14 Q. Did you ever have any cell phone
15 carriers other than Verizon since you have
16 owned a cell phone?

17 A. It has been a couple; Verizon,
18 T-Mobile, Sprint.

19 Q. Tell me about June 29, 2008.

20 What time did this incident happen?

21 A. It was in the later part of the
22 evening. I don't know the exact time because
23 it is over ten years already. I was basically
24 on my way to work. I worked the midnight shift
25 at LaGuardia airport. And in exiting my house,

1 BENJAMIN PLAZA, JR.

2 walking down the block to go to my car to
3 proceed to go to my job, I was approached by
4 two individuals. The third party is still
5 unknown. And at that point, there was a verbal
6 conversation between myself and Mr. Heilbron.
7 And that the point, I felt that I was being
8 trapped, given my location between a parked car
9 and a stationary object. And as soon as I
10 started to -- I felt that things were going in
11 the wrong direction. The third individual
12 struck me in the right side. And then,
13 Heilbron struck me in the jaw, which actually
14 broke the jaw in two places.

15 Q. Now, you mentioned you were met with
16 Heilbron and two individuals --

17 A. A third individual, a third party.

18 Q. Heilbron -- Oh, so there were two
19 people?

20 A. Correct.

21 Q. Can you describe that other person to
22 me?

23 A. Like I said, it has been ten years.
24 It is basically a Hispanic male, same height as
25 him, light skin. I don't know the individual's

1 BENJAMIN PLAZA, JR.

2 name.

3 Q. Had you spoken to Mr. Heilbron on June
4 29th before this incident at all?

5 A. Not that I recall.

6 Q. Had you communicated with him at all
7 on any type of social media?

8 A. No.

9 Q. So, when Mr. Heilbron and this other
10 individual approached you, did they speak to
11 you and did you speak to them about anything?

12 A. Like I said, as I was proceeding
13 walking to my car, two individuals came up to
14 me, one being Mr. Heilbron. The other
15 individual which we don't know, as in their
16 first initial meeting with them, the
17 conversation is "Hey, what is going on? How
18 are you doing." And then the actual dialogue
19 between Heilbron and I was, you know, "What is
20 going on with you and Melissa?"

21 Q. Okay. So now, who said, "Hey, what is
22 going on?" Did you say it to them or did they
23 say it to you?

24 A. They said it to me, mainly Heilbron.

25 Q. Who said, What is going on with

1 BENJAMIN PLAZA, JR.

2 Melissa?

3 A. Heilbron.

4 Q. And he said that to you?

5 A. Yeah.

6 Q. Who is Melissa?

7 A. Melissa is a mutual friend that we
8 went to high school with. In the same,
9 basically, industry as I was in, aviation.

10 Q. Was she working at the same job that
11 you were working in?

12 A. No. Not that I recall.

13 Q. How did you know Melissa?

14 A. Through mutual friends, through
15 school, Aviation High School.

16 Q. Did Mr. Heilbron know Melissa?

17 A. Yes.

18 Q. How did he know her?

19 A. I believe that they were dating at
20 some point.

21 Q. So, other than saying to you "What is
22 going on with you and Melissa," did he say
23 anything else to you?

24 A. No. There was really nothing else
25 that was stated after that.

1 BENJAMIN PLAZA, JR.

2 Q. Did you respond to him and ask him
3 what he meant by "What is going on with you and
4 Melissa"?

5 A. No, because like I said, everything
6 happened so fast that by the time I could even
7 explain it, the third individual struck me, and
8 then that is when Heilbron struck me in the
9 jaw.

10 Q. Was Gabriel Estevido there at that
11 time?

12 A. No.

13 Q. Now, were you friends with Melissa on
14 any type of social media?

15 A. No.

16 Q. At any time prior to this incident,
17 had you -- and during what you perceived to be
18 a time period when Heilbron was dating
19 Melissa -- did you go on any dates with
20 Melissa?

21 MR. ROTHSTEIN: Objection to the
22 form. You kind of put in two different
23 periods of time.

24 MR. BASSIAS: I will rephrase it.

25 Q. Had you dated Melissa at all prior to

1 BENJAMIN PLAZA, JR.

2 the incident?

3 A. It was just on a friendship basis.

4 Q. Is that a yes?

5 A. Yeah. But it wasn't anything serious.

6 Q. How many times had you dated her prior
7 to this incident?

8 A. Just once.

9 Q. One time?

10 A. Yes.

11 Q. Was it your perception that when Mr.
12 Heilbron asked you what was going on with you
13 and Melissa, that he was referring to this date
14 that you had with Melissa?

15 A. No.

16 Q. What was your impression that he was
17 asking you this question for.

18 A. It was an open question. I didn't
19 understand his question.

20 Q. Did you tell him that you didn't
21 understand his question?

22 A. I didn't have time to tell him.

23 Q. At any time during this incident, did
24 you ever hit Mr. Heilbron?

25 A. No.

1 BENJAMIN PLAZA, JR.

2 Q. Did you ever hit the other individual?

3 A. No.

4 Q. So, you mentioned that the other
5 individual hit you first?

6 A. Yes.

7 Q. Where did he hit you?

8 A. Right side, earlobe.

9 Q. And as a result of that hit, did you
10 fall to the ground?

11 A. No. It actually put me in striking
12 distance of Heilbron which caused the actual
13 blow to break the jaw twice.

14 Q. All right. So --

15 A. Do you want me to show you?

16 Q. No.

17 MR. BASSIAS: Off the record for a
18 second.

19 (Whereupon, a discussion was held
20 off the record.)

21 Q. So, you mentioned you were struck
22 twice on the right side of your jaw.

23 MR. ROTHSTEIN: I don't think he
24 said that. I think he said he was
25 struck twice.

1 BENJAMIN PLAZA, JR.

2 A. I said I was struck twice, one being
3 from the third individual on the right side
4 earlobe. The second strike was from Mr.
5 Heilbron which broke the jaw twice.

6 Q. Is it your testimony that during this
7 entire period, you did nothing to defend
8 yourself?

9 A. How can I?

10 Q. Did you ever raise your hands to block
11 any of the punches?

12 A. No.

13 Q. Did you see Mr. Heilbron taking a
14 swing at you before he hit you?

15 A. No.

16 Q. What were you looking at that time
17 that Mr. Heilbron struck you?

18 A. The ground.

19 Q. So, is it your testimony that when Mr.
20 Heilbron hit you, you were already on the
21 ground?

22 A. No.

23 Q. At the time just before Mr. Heilbron
24 hit you, what were you looking at? The instant
25 just before he hit you.

1 BENJAMIN PLAZA, JR.

2 A. I was looking at the ground because of
3 the right earlobe strike, it caused my head to
4 go down.

5 Q. Okay.

6 A. And then what happened after that was
7 the actual strike by Mr. Mr. Heilbron.

8 Q. And then what happened after Mr.
9 Heilbron struck you?

10 A. I grabbed my jaw because I knew it
11 broke, which I was then in complete shock. And
12 I proceeded to walk back to my house as fast as
13 I can to get medical attention, because my aunt
14 was in the house and she is a registered nurse.
15 So, I asked her to help me as soon as she can.
16 What happened to them, I don't know. They
17 left.

18 Q. So, other than yourself, Mr. Heilbron
19 and that third individual, do you know of any
20 other witnesses to this incident?

21 A. No.

22 Q. You went back and you saw your aunt.
23 Did your aunt examine you?

24 A. Yeah. She is the one who called the
25 police, and is she is the one that helped,

1 BENJAMIN PLAZA, JR.

2 somewhat, stop the bleeding.

3 Q. Where were you bleeding?

4 A. Through my mouth and ear.

5 Q. Did you then go to the hospital?

6 A. Yes. Emergency.

7 Q. How did you get to the hospital?

8 A. Ambulance.

9 Q. An ambulance came and picked you up at
10 your house?

11 A. I believe so, yes.

12 Q. Were you admitted in the hospital or
13 were you treated there as an outpatient?

14 A. I was admitted and then I was at, I
15 think that is Mount Sinai, Queens. But then
16 from there -- the actual extent of the damage
17 was too severe that they had to admit me to
18 Manhattan, Mount Sinai, I believe. Yeah.

19 Q. So, you were transferred --

20 A. From Queens to Manhattan.

21 Q. To Manhattan.

22 What did they do for you in Queens, if
23 anything?

24 A. They just basically did -- from what I
25 recall, you know what? I don't recall.

1 BENJAMIN PLAZA, JR.

2 Q. You don't recall?

3 A. No.

4 Q. What was the purpose of you being
5 transferred to Manhattan?

6 A. Because of the specialist that needed
7 to handle my particular case.

8 Q. Did you have surgery?

9 A. Yes.

10 Q. What were the findings after all your
11 treatment, diagnosis, prognosis?

12 A. Well, they had to wire the mouth shut.
13 They had to put a plate in the lower jaw area.
14 They had to also put a the plate here
15 (indicating) to fix that break. And then, the
16 actual -- also the oral surgery that had to be
17 done was with the teeth, the molars, stuff like
18 that.

19 Q. Prior to this incident, did you ever
20 have any problems with your teeth and your jaws
21 in --

22 A. No.

23 Q. -- in the area that -- please let me
24 finish for the record.

25 Did you ever have any problems with

1 BENJAMIN PLAZA, JR.

2 your teeth or your jaws?

3 A. No.

4 Q. When was the last time that you saw a
5 dentist prior to this incident?

6 A. About a week and a half ago.

7 Q. What was the purpose of that visit?

8 A. To follow up, to make --

9 MR. ROTHSTEIN: I'm sorry. Are you
10 talking about before the incident?

11 MR. BASSIAS: Before the incident.

12 MR. ROTHSTEIN: He is talking about
13 ten years ago, before the incident.

14 THE WITNESS: Oh.

15 MR. ROTHSTEIN: He is answering now.

16 Q. I meant before the incident, when is
17 the last time you saw a dentist?

18 A. The accident was about ten years ago.
19 I don't recall.

20 Q. Prior to this incident, were you ever
21 diagnosed with problems for your jaw, like TMJ?

22 A. No.

23 Q. Did you ever have any surgery to that
24 side of your mouth where your teeth are, prior
25 to this incident?

1 BENJAMIN PLAZA, JR.

2 A. No.

3 Q. After the incident, did you ever
4 communicate with Mr. Heilbron?

5 A. No.

6 Q. Did you call him or did you talk to
7 him?

8 A. No.

9 Q. Did you call the police to the scene?

10 A. That was -- that was handled either by
11 my aunt or my sister.

12 Q. Do you know when this matter was
13 reported to the police?

14 A. As soon as it happened.

15 Q. Were you ever interviewed by a
16 detective or anybody?

17 A. I believe so. I was.

18 Q. Did they come to your house or did you
19 go to the station?

20 A. I don't recall. I don't remember.

21 Q. Did you tell them about this other
22 individual?

23 A. Yes.

24 Q. Do you know if this other individual
25 was ever identified?

1 BENJAMIN PLAZA, JR.

2 A. No, because he never gave him up.

3 Q. After this incident happened, did you
4 ever have anything happen where you reinjured
5 your jaw?

6 A. No.

7 Q. Okay. Now --

8 MR. BASSIAS: Off the record a
9 second.

10 (Whereupon, a discussion was held
11 off the record.)

12 Q. As we sit here today, do you have any
13 present complaints about the injuries you
14 sustained in this accident?

15 A. Yes. I deal with it every day.

16 Q. What are the complaints?

17 A. Stiffness, joint pain, teeth moving,
18 hence the reason for the annual checkups. The
19 molar cap that I have, to make sure it is
20 secured.

21 Q. After this incident, did you ever talk
22 to Melissa in regards to this incident?

23 A. No.

24 Q. Do you know if Melissa is aware of
25 this incident?

1 BENJAMIN PLAZA, JR.

2 A. Yes, she is.

3 Q. How do you know she is aware of it?

4 A. Because it was brought to her
5 attention, I believe, when I was in the
6 hospital.

7 Q. Who brought it to her attention?

8 A. It could have been either my sister or
9 myself, from what I recall.

10 Q. Did you meet Michael Heilbron in high
11 school?

12 A. No.

13 Q. Did you go to the same high school
14 together?

15 A. I don't know, what high school did he
16 go to?

17 Q. What high school did you go to?

18 A. Aviation High School.

19 Q. Did Michael Heilbron live in the same
20 neighborhood that you lived in?

21 A. No.

22 Q. Do you know where he lived?

23 A. I am not sure. I think it might be
24 East -- I think it is Elmhurst, if I am not
25 mistaken.

1 BENJAMIN PLAZA, JR.

2 Q. Have you ever been to his house prior
3 to the incident?

4 A. No.

5 Q. According to Mr. Heilbron, you have
6 been over to his house for dinner with his
7 family.

8 Is that an incorrect statement?

9 A. Yes.

10 Q. At any point in time during the
11 incident with Mr. Heilbron, did you grab Mr.
12 Heilbron?

13 A. No.

14 Q. At any point in time during the
15 incident, did you take any swings at Mr.
16 Heilbron?

17 A. No.

18 Q. You mentioned that when the first
19 person hit you, your jaw broke.

20 How did you become aware that your jaw
21 was broken?

22 MR. ROTHSTEIN: Objection to the
23 form. That is not what he said; not the
24 first punch. Mr. Heilbron broke his
25 jaw.

1 BENJAMIN PLAZA, JR.

2 MR. BASSIAS: No, he mentioned --

3 Can you go back?

4 (Whereupon, the reporter read the
5 requested portion of the record.)

6 Q. As a result of the first individual
7 hitting you, was it your understanding that
8 your jaw broke?

9 A. Say that again.

10 Q. As a result of first person hitting
11 you, that third-party, that unknown person, did
12 you understand that as a result of him hitting
13 you, that your jaw broke?

14 A. It didn't break at that point.

15 Q. What, if anything, happened as a
16 result of him hitting you?

17 MR. ROTHSTEIN: Let's be clear. The
18 first person?

19 MR. BASSIAS: Yes.

20 A. The first person, when he struck me,
21 he cut the earlobe with some type of object.

22 Q. He was holding an object?

23 A. Well, how do you cut someone's
24 earlobe? You don't cut it with your fingers.
25 It has got to be something.

1 BENJAMIN PLAZA, JR.

2 Q. Okay. But I'm understanding from your
3 testimony, correct me if I'm wrong, that you're
4 concluding that he was holding an object
5 because your earlobe was bleeding.

6 A. Yeah, my earlobe was cut.

7 Q. At any point in time, did you see Mr.
8 Heilbron holding an object?

9 A. No.

10 Q. Other than his hand, did any other
11 part of Mr. Heilbron's body come into contact
12 with you?

13 A. No.

14 Q. Now, you mentioned that as a result of
15 Mr. Heilbron hitting you, your jaw broke twice.

16 A. Yes.

17 Q. Did he hit you once or did he hit you
18 twice?

19 A. Once.

20 Q. Did that one hit cause your jaw to
21 break in two places?

22 A. Yes.

23 Q. Which part of your jaw, was it your
24 understanding, broke?

25 A. The center and (indicating) -- the

1 BENJAMIN PLAZA, JR.

2 terminology, I don't know. But there is
3 terminology.

4 MR. BASSIAS: Indicating towards his
5 right earlobe.

6 THE WITNESS: Yes.

7 MR. BASSIAS: Indicating towards
8 your right earlobe?

9 THE WITNESS: Yes. It broke here
10 and it broke here (indicating).

11 Q. Okay. So, now, where did Mr. --

12 MR. ROTHSTEIN: Let it be clear.
13 Did it break on your jaw or by your
14 earlobe?

15 THE WITNESS: My jaw.

16 Q. Which part of your jaw broke?

17 A. Here (indicating).

18 MR. BASSIAS: Indicating your chin.

19 Q. Did your jaw also break close to your
20 earlobe?

21 A. It broke here (indicating).

22 Q. What kind of break happened with your
23 jaw towards your chin and what kind of break
24 was it towards your ear?

25 A. (No verbal response.)

1 BENJAMIN PLAZA, JR.

2 Q. Was it a hairline fracture? Was it --

3 A. It was a complete fracture.

4 Q. A complete fracture.

5 The area of your chin, did it break in
6 half? Did it separate?

7 A. It broke in half.

8 Q. Broke in half.

9 What about your earlobe?

10 A. Broke in half.

11 Q. Broke in half. Okay.

12 Where did Mr. Heilbron's hand hit you;
13 on the chin or towards the ear?

14 A. Here (indicating).

15 MR. BASSIAS: Indicating the left
16 side.

17 THE WITNESS: The left jaw.

18 Q. The left jaw.

19 Is it your testimony that as a result
20 of him hitting you on the left jaw, that your
21 chin broke and right side of your jaw broke?

22 A. Yes.

23 Q. I am sorry?

24 A. Yes.

25 Q. Is it possible that your jaw broke

1 BENJAMIN PLAZA, JR.

2 when you fell to the ground and hit the ground?

3 MR. ROTHSTEIN: Objection to the
4 form. He never said he fell to the
5 ground.

6 Q. Did you fall to the ground after Mr.
7 Heilbron hit you?

8 A. No.

9 Q. At any time, did you fall to the
10 ground?

11 A. No.

12 Q. At any point in time, did you lose
13 consciousness?

14 A. No.

15 Q. How do you know that your jaw broke as
16 a result of Mr. Heilbron hitting you and not
17 the first person hitting you?

18 A. Because of the actual impact of the
19 punch. I heard it snap, and then after that,
20 blood came out of my mouth. And after that,
21 the jaw was moving freely.

22 Q. When the first individual hit you, how
23 did you feel?

24 A. Caught off guard.

25 Q. Did it daze you at all?

1 BENJAMIN PLAZA, JR.

2 A. It didn't daze me. All it made me do
3 is move my head down which was in striking
4 range of Mr. Heilbron to break my jaw.

5 Q. How much time elapsed from the time
6 the first guy hit you until --

7 A. Seconds.

8 Q. -- until Mr. Heilbron hit you?

9 What were the lighting conditions like
10 at that time?

11 A. Evening, which is streetlights.

12 Q. Could you see clearly?

13 A. Yes.

14 Q. Had you had any alcohol to drink
15 within 24 hours of this incident?

16 A. No.

17 Q. Had you taken any prescription or
18 nonprescription drugs within 24 hour of this
19 incident?

20 A. No.

21 Q. Do you wear glasses?

22 A. At that point -- no, I wasn't wearing
23 glasses at that point.

24 Q. At that point, at the time of the
25 incident, had any physician ever prescribed you

1 BENJAMIN PLAZA, JR.

2 prescription for lenses or contact lenses?

3 A. I don't recall because I know for a
4 fact that I had to be wearing either contacts
5 or I had my LASIK surgery already. I can't get
6 the time, the years, down. But no, I was not
7 wearing any prescription lenses that the point.

8 Q. Did you ever see Mr. Heilbron, again,
9 after this incident?

10 A. No.

11 Q. Did you ever see Gabriel Estevido
12 again after this incident?

13 A. No -- well, sorry. I will retract
14 that. We work together so -- as far as seeing
15 him, yeah, because we work together at the same
16 job.

17 Q. Did you ever discuss this incident
18 with Gabriel Estevido after this incident?

19 A. No. I didn't want to get into it.

20 Q. Correct me if I'm wrong, but did you
21 testify earlier that you no longer speak to
22 Gabriel Estevido?

23 A. I don't talk to him.

24 Q. Does your not talking to him have
25 anything to do with this incident?

1 BENJAMIN PLAZA, JR.

2 MR. ROTHSTEIN: Him or her?

3 Q. Is Gabriel a male or female?

4 A. Male.

5 Q. Does your not talking to him have
6 anything to do with this incident?

7 A. I just don't talk to him. No, it
8 doesn't.

9 MR. BASSIAS: I have no further
10 questions.

11 Thank you.

12 MR. ROTHSTEIN: Thank you.

13 (Thereupon, the examination was
14 concluded at 10:32 a.m.)
15
16
17
18
19
20
21
22
23
24
25

1 BENJAMIN PLAZA, JR.

2 A C K N O W L E D G M E N T

3
4
5 STATE OF NEW YORK)

6 :ss

7 COUNTY OF)

8 I, BENJAMIN PLAZA, JR., hereby certify
9 that I have read the transcript of my testimony
10 taken under oath on 08/30/2018; that the
11 transcript is a true, complete and correct
12 record of what was asked, answered and said
13 during this proceeding, and that the answers on
14 the record as given by me are true and correct.
15

16
17 -----
18 BENJAMIN PLAZA, JR.

19
20 Signed and subscribed to
21 before me this ____ day
22 of _____, 2018

23 -----
24 Notary Public
25

1 BENJAMIN PLAZA, JR.

2 C E R T I F I C A T E

3 STATE OF NEW YORK)

4 :ss

5 COUNTY OF NASSAU)

6
7 I, LORI HOFF-ROONEY, a Notary Public
8 within and for the State of New York, do hereby
9 certify:

10 That the witness whose examination is
11 hereinbefore set forth was duly sworn and that
12 such an examination is a true record of the
13 testimony given by such a witness.

14 I further certify that I am not related to
15 any of these parties to this action by blood or
16 marriage, and that I am not in any way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this 30th day of August, 2018.

20
21
22
23 *Lori Hoff Rooney*
Lori Hoff-Rooney

BENJAMIN PLAZA, JR.

INDEX

EXAMINATION OF BENJAMIN PLAZA, JR.

EXAMINATION BY	PAGE
GEORGE BASSIAS	5

EXHIBITS

THERE WERE NO EXHIBITS MARKED FOR IDENTIFICATION